

REMARKS

Applicant intends this response to be a complete response to the Examiner's 4 November 2004 Notice of Non-Compliant Amendment. Applicant has labeled the paragraphs in his response to correspond to the paragraph labeling in the Office Action for the convenience of the Examiner.

Preliminary Statement

Claim 9 was inadvertently canceled in the October 23, 2003 Preliminary Amendment. The Canceled claims should have been 1-8 and 10-20. Applicant's attorney apologizes for the mistake and requests that claim 9 be reinstated.

Rejections Under 35 U.S.C. §102

Claims 9 and 23-43 stand rejected under 35 U.S.C. 102(b) as being anticipated by Anderson U.S. patent No. 5,397,382. Applicant traverses this rejection and requests reconsideration based on the amendments, if any, and arguments herein.

The Examiner contends as follows:

Anderson teaches an air purifying apparatus which adapts a potted plant for filtration of air. A separable fan unit 12 is attached to the bottom of a pot. A hub-like air manifold is situated with the plant growth medium within the pot (see column 4, lines 55-70) and Figs. 3 and 4. The manifold has a torus shape with air inlets on the bottom of it, the inlets being either plural or singular and continuous. The apparatus is used to pull air from the surrounding atmosphere through the plant growth media to filter contaminants from it.

Anderson like Jeffery is a complex combination of a plant growing container, a base section and an air conduit systems. The Anderson system includes a fan unit situated in the base of the unit. The problem with the Anderson and Jeffery systems is that both are complex, require a specialized container having a base unit and have the fan situated where a water leak could potentially disrupt the flow of electricity to the fan.

The present invention on the other hand is a much simpler apparatus for converting standard pots to air filtration units. The apparatus does not need a specialized pot. It is designed to be used with any pot. All this is required is that the pot member be placed in the pot so that when the pot is filled with growth medium, the bottom surface of the pot member is below a surface of the medium. The plant is then planted into the pot. The conduit allows the member to communicate with the external gas. The fan unit is designed to rest on the end of the conduit which extends above a surface of the medium. Thus, the fan unit is associated with a portion of the top of the pot. In this manner, the fan is protected from water leaks in the system as the water in the pot would not be able to flow into the fan unit.

Anderson does not disclose a fan unit associated with a top portion of the pot and does not use a standard pot and, therefore, does not anticipate the present claims. Applicant, therefore, respectfully requests withdrawal of this section 102(b) rejection.

Moreover, Anderson does not render the present invention obvious because Anderson does not disclose, teach or suggest an apparatus that converts a standard pot for growing plants into a gas filtration systems and does not disclose, teach or suggest an apparatus having the fan unit located above the pot or medium fill surface of the top avoiding potential water infiltration problems.

Rejections Under 35 U.S.C. §103

Claims 21 and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Foster (USPN 1,606,160) in view of Lodes (USPN 3,914,077).

The Examiner contends:

Anderson teaches the provision of water sensing means for the apparatus as well as electronic control means (see column 6, lines 1-15 and column 6, lines 67-column 7, line 12), and it would have been well within the purview of one of ordinary skill in the art to determine those optimal control apparatus useable in conjunction with the filtration/ humidification assembly.

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The present invention on the other hand is a much simpler apparatus for converting standard pots to air filtration units. The apparatus does not need a specialized pot. It is designed to be used with any pot. All this is required is that the pot member be placed in the pot so that when the pot is filled with growth medium, the bottom surface of the pot member is below a surface of the medium. The plant is then planted into the pot. The conduit allows the member to communicate with the external gas. The fan unit is designed to rest on the end of the conduit which extends above a surface of the medium. Thus, the fan unit is associated with a portion of the top of the pot. In this manner, the fan is protected from water leaks in the system as the water in the pot would not be able to flow into the fan unit.

Anderson does not disclose a fan unit associated with a top portion of the pot and does not use a standard pot and, therefore, does not anticipate the present claims. Applicant, therefore, respectfully requests withdrawal of this section 103(a) rejection.

Having fully responded to the Examiner's Non-Final Office Action, Applicant respectfully urges that is application be passed onto allowance.

If it would be of assistance in resolving any issues in this application, the Examiner is kindly invited to contact applicant's attorney Robert W. Strozier at 713.977.7000

Date: **December 8, 2004**

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Robert W. Strozier', is written over a horizontal line.

Robert W. Strozier
Reg. No. 34,024